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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,908	07/09/2001	Ing-Jing Huang	P60998US0	8599

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EXAMINER

VO, HAI

ART UNIT PAPER NUMBER

1771

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,908

Applicant(s)

HUANG, ING-JING

Examiner

Hai Vo

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 and 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Claim Objections***

1. Claims 40-45 are objected to because of the following informalities: the term "a" needs to be added right after --with--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, 8, 10, 11, 25, 26, 28, 29, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Selner (US 4,187,620). Selner teaches a three dimensional air cushion for use in a shoe comprising one air chamber 24 having a sealed periphery edge 40, a base portion 38 and two opposed lateral sides located on opposite sides of the base portion to form a concave structure. Selner discloses the two opposed lateral sides ~~projection~~ above a plane occupied by the base portion to form elevated sidewalls of the air cushion and forming a U-shape with the base portion (figures 3 and 4). Selner also teaches the shoe bottom that includes an air chamber 24 being fitted in a lining (column 2, lines 47-48) and a pair of mating platform members 30 and 32 (figure 1, column 2, lines 63-64). Likewise, it is apparent that the base portion and the two lateral sides being formed between a lining and the platform members. Figures 3 and 4 show that an inner surface area of the air cushion defined by the lining and inner sole 26 being smaller than an outer

surface area of the air cushion defined by the platform members. The air cushion further includes a one-way valve 44 and an associated inlet for filling air. It is the examiner's position that Selner anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selner (US 4,187,620) as applied to claims 1 and 2 above, further in view of Grim (US 5,353,525). Selner is silent as to pump device of the air cushion. Grim teaches an athletic shoe including a flat pump chamber in the sole of the shoe under the heel of the wearer to adjust the internal air pressure to suit the individual needs of the wearer (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the pump in combination with a valve motivated by the desire to adjust the internal air pressure to suit the individual needs of the wearer.
6. Claims 37, 38, 40, 41, 43, 44, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selner (US 4,187,620) as applied to claims 1 and 2 above, further in view of Huang (US 4,670,995). Selner is silent as to the air cushion being filled with a liquid fluid, semi-liquid fluid, foam material as well as gas other than air. Huang teaches the air cushion of the shoe can be filled with a liquid fluid, semi-liquid

fluid, or foam material (column 4, line 59 et seq.). Further, Huang reference does not exclude an embodiment where the air cushion is filled with a gas other than air (column 4, lines 60-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the air cushion with the materials taught by Huang motivated by the desire to maximize the cushion effectiveness and provide substantial support to the weight of the wearer.

7. Claims 3, 9, 12-24, 27, 30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selner (US 4,187,620) in view of Donzis (US 4,217,705).

Selner teaches every single element of the claims except two air chambers communicating with each other. Donzis discloses a self-contained device adapted to cushion and support the foot by means of fluid pressure (abstract). Donzis also teaches the device including a plurality of communicating chambers 21, each functioning as a pneumatic cushion when device is pressurized. Donzis further teaches the device comprising passageways 23 located around the periphery of the device that are formed by leaving an unsealed region between the sealed internal regions 20 (recesses) and the periphery seal 24 (column 7, lines 35-40, figures 2A-2C, and 3). Figure 2A-2C and 3 of Donzis show two air chambers being sealed and recessed elongated groove having a structure recited in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Selner and Donzis together motivated by the desire to provide the air cushion having excellent cushioning and supporting effect to the weight of the wearer.

With regard to claims 12, 30 and 33, Selner teaches the air cushion including a one-way valve 44 and an associated inlet for filling air.

8. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selner (US 4,187,620) in view of Donzis (US 4,217,705) as applied to claim 3 above, further in view of Grim (US 5,353,525). The combination of Selner and Donzis is silent as to pump device of the air cushion. Grim teaches an athletic shoe including a flat pump chamber in the sole of the shoe under the heel of the wearer to adjust the internal air pressure to suit the individual needs of the wearer (abstract). It would have been obvious to one having ordinary skilled in the art at the time the invention was made to use the pump in combination with a valve motivated by the desire to adjust the internal air pressure to suit the individual needs of the wearer.
9. Claims 39, 42, 45, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selner (US 4,187,620) in view of Donzis (US 4,217,705) as applied to claim 3 above, further in view of Huang (US 4,670,995). The combination of Selner and Donzis is silent as to the air cushion being filled with a liquid fluid, semi-liquid fluid, foam material as well as gas other than air. Huang teaches the air cushion of the shoe can be filled with a liquid fluid, semi-liquid fluid, or foam material (column 4, line 59 et seq.). Further, Huang reference does not exclude an embodiment where the air cushion is filled with a gas other than air (column 4, lines 60-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the air cushion with the materials taught by Huang

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motivated by the desire to maximize the cushion effectiveness and provide substantial support to the weight of the wearer.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426.

The examiner can normally be reached on Tue-Fri, 8:30-6:00 and on alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV  
April 12, 2003

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
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